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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/632,756 | 07/31/2003 | Charles R. Weirauch | 200314250-1 | 4652 |
| 22879 7590 06/13/2007 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400 | | | EXAMINER LEMMA, SAMSON B | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|-------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/632,756 | Applicant(s) WEIRAUCH, CHARLES R. | |
| | Examiner Samson B. Lemma | Art Unit 2132 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5 and 8-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5 and 8-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. The request filed April 04, 2007 for a request for continued examination (RCE) under 37 CFR 1.114 based on patent application 10/632,756 is acceptable and an RCE has been established.
2. Claims 1-4 and 6-7 are canceled. New claims 8-16 are added. Thus claims **5, 8-16** are pending/examined, of which claims 5 and 12 are independent claims.

Response to Arguments

3. Applicant's argument filed on April 04, 2007, have been fully considered but they are not persuasive.

Applicant's discussed that, the reference on the record, namely, **Yamauchi** does not disclose the limitation that is actually disclosed in the amended independent claim 5.

Applicant's representative, in particular presented that the following two major arguments.

- First, it has been argued that Yamauchi does not teach "header data specifying that a drive reading the data storage medium is permitted to send the sector data in an unencrypted form to the requestor if the one or more control bits equal a first value," as required by independent claim 5, as amended.
- Secondly, it has been argued that independent claim 5, as amended, also requires that the control bits "determine whether the sector data is sent to a requestor regardless of the type of data stored in the sector' (emphasis added). Applicants note that Applicants' disclosure makes no characterizations of the type of data stored on the storage medium, referring to "data" throughout the disclosure in generic terms.

Examiner disagrees with the above two arguments.

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First of all, based on a through review of the entire disclosure and a text search for the limitation "first/second/third value", Examiner couldn't find "readily apparent support" in the specification reciting/mentioning/defining these limitations.

Furthermore, in response to the rest of the first argument, Examiner would point out that a transformation of digital data into video does not necessarily imply encryption. Conversion of digital data from one form to the other is not necessarily considered to be encryption. Data is considered to be encrypted when encryption key is involved in the encryption process to produce a cipher text or if the data undergoes through some kind of encryption algorithm.

Furthermore, the reference on the record namely Yamauchi, on column 7, lines 12-36 discloses the following.

*"The data transmitting device according to the present invention includes: a data retrieval section for retrieving digital data by reproducing an information recording medium **having a sector structure having a header region and a data region, the header region storing a data attribute flag indicating whether or not the digital data stored in the data region is video information;** a judgment section for judging whether or not the **digital data is video information based on the data attribute flag;** and a control section for outputting the digital data and the data attribute flag when the digital data is video information, whereby the above objective is attained. The data receiving device according to the present invention is a data receiving device connected to a digital interface for receiving digital data including video information from a data transmitting device via the digital interface, for converting the digital data into video data, and for outputting the video data, the data receiving device including: an interface section **for receiving the digital data via the digital interface;** a judgment section for judging whether or not the digital data is video information based on **the data attribute***

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*flag included in the received digital data indicating whether or not the digital data is video information; and a control section for prohibiting the digital data from being output to the digital interface without **being converted into the video data when the digital data is video information, whereby the above objective is attained.*** And such conversion does not imply encryption and meets the limitation recited as "the header data specifying that a drive reading the data storage medium is permitted to send the sector data in an unencrypted form to the requestor."

Secondly, based on a through review of the entire disclosure and a text search for the limitation "**regardless of the type of data stored in the sector**", Examiner couldn't find "readily apparent support" in the specification reciting/mentioning/defining this negative limitation.

Furthermore, In response to the second argument, Examiner would point out, the examiner interpretation of the data as a video data is correct as it is also recited on applicant's specification. For instance the following has been disclosed on paragraph 0002 of applicant's published specification, "For media with entertainment content, for example music and video, some data exists in scrambled form in some of the user data sectors....,"

Therefore the rejections remains to be valid unless and otherwise the claims are further amended and overcome the rejection without introducing a new matter.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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5. **Claims 5-11 and 12-16** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Based on a thorough review of the entire disclosure and a text search for **"first/second/third value"**, there is no "readily apparent support" in the specification reciting/mentioning/defining the limitation.

6. **Claims 5-11 and 12-16** are also rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Based on a thorough review of the entire disclosure and a text search for **"regardless of the type of data stored in the sector"**, there is no "readily apparent support" in the specification reciting/mentioning/defining the limitation.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. **Claims 5-11 and 12-16 are rejected under** 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claims 5 and 12 recites the term "first value" and the rest of the dependent claims recites "second/third value" which are not a well-defined terms. Such terms are not only vague but also ambiguous.

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Applicant has to explicitly and clearly indicate where in the original specification, the terms are defined and what they mean.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. **Claims 5-11 and 12-16** are rejected under 35 U.S.C. 102(b) as being anticipated by **Yamauchi et al** (hereinafter referred as **Yamauchi**)(U.S. Patent No. 6,047,103)
11. **As per claims 5 and 12** **Yamauchi discloses a data storage medium**, [column 8, lines 8-9 & column 8, lines 37-38] (see “information recording medium) comprising:
- **A sector, the sector including header data and sector data**; [Column 8, lines 7-10; column 8, lines 37-40; column 7, lines 66-column 8, line 10 and column 8, line 28-40] (wherein the information recording medium has a sector structure having a header region and a data region) and
 - **the header data including, one or more control bits that determine whether tile sector data is sent to a requestor regardless of the type of data stored in the sector** [Column 7, lines 12-36, “see for instance, “the header region storing a data attribute flag indicating whether or not the digital data stored in the data region is video information; a judgment section for judging

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whether or not the digital data is video information based on the data attribute flag")

• **The header data specifying whether a drive reading the data storage medium is permitted to send the sector data in an unencrypted form to a requestor.** [column 7, lines 12-36] (*"The data transmitting device according to the present invention includes: a data retrieval section for retrieving digital data by reproducing an information recording medium having a sector structure having a header region and a data region, the header region storing a data attribute flag indicating whether or not the digital data stored in the data region is video information; a judgment section for judging whether or not the digital data is video information based on the data attribute flag; and a control section for outputting the digital data and the data attribute flag when the digital data is video information, whereby the above objective is attained. The data receiving device according to the present invention is a data receiving device connected to a digital interface for receiving digital data including video information from a data transmitting device via the digital interface, for converting the digital data into video data, and for outputting the video data, the data receiving device including: an interface section for receiving the digital data via the digital interface; a judgment section for judging whether or not the digital data is video information based on the data attribute flag included in the received digital data indicating whether or not the digital data is video information; and a control section for prohibiting the digital data from being output to the digital interface without **being converted into the video data when the digital data is video information, whereby the above objective is attained.**" And such conversion does not imply encryption and meets the limitation of **sending the sector data in an unencrypted form to a requestor.**)*

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12. **As per claims 8-11 and 13-16 Yamauchi discloses a data storage medium,**

[column 8, lines 8-9 & column 8, lines 37-38] (see "information recording medium) comprising:

- **A sector, the sector including header data and sector data;** [Column 8, lines 7-10; column 8, lines 37-40; column 7, lines 66-column 8, line 10 and column 8, line 28-40] (*wherein the information recording medium has a sector structure having a header region and a data region*)
- **The header data having a first value that specifies that a drive reading the data storage medium is permitted to send the sector data in an unencrypted form to a requestor.** [column 7, lines 12-36] (*"The data transmitting device according to the present invention includes: a data retrieval section for retrieving digital data by reproducing an information recording medium having a sector structure having a header region and a data region, the header region storing a data attribute flag indicating whether or not the digital data stored in the data region is video information; a judgment section for judging whether or not the digital data is video information based on the data attribute flag; and a control section for outputting the digital data and the data attribute flag when the digital data is video information, whereby the above objective is attained. The data receiving device according to the present invention is a data receiving device connected to a digital interface for receiving digital data including video information from a data transmitting device via the digital interface, for converting the digital data into video data, and for outputting the video data, the data receiving device including: an interface section for receiving the digital data via the digital interface; a judgment section for judging whether or not the digital data is video information based on the data attribute flag included in the received digital data indicating whether or not the digital data is video information; and a control section for prohibiting the digital data from being output to the digital interface without being converted into the video data when the digital data is video*)

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information, whereby the above objective is attained." And such conversion does not imply encryption **and meets the limitation of sending the sector data in an unencrypted form to a requestor.)** and

- **If the one or more control bits equal a second value and if the requestor is authenticated.** [Column 8, lines 10-27 and column 8, lines 39-65] (on the other embodiment for instance on Column 8, lines 39-65 the following has been disclosed. "wherein the information recording medium has a sector structure having a header region and a data region, the header region storing a data attribute flag indicating whether or not digital data stored in the data region is video information, the data transmitting device receives information specifying digital data to be retrieved and the data receiving device; retrieves the specified digital data from the information recording medium; judges whether or not the data region includes video information based on the data attribute flag; authenticates whether or not the data receiving device is a proper data receiving device when the data region includes video information; **and outputs the retrieved digital data after encrypting via the digital interface only** when the authentication has been successful, and the data receiving device proves itself as the proper data receiving device in response to the authentication from the data transmitting device and converts the digital data into the video data after decrypting the encrypted digital data received via the digital interface, whereby the above objective is attained.")

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samson B Lemma whose telephone number is 571-

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272-3806. The examiner can normally be reached on Monday-Friday (8:00 am---4:30 pm).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BARRON JR GILBERTO can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 703-873-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SAMSON LEMMA

S.L.

06/01/2007


Benjamin E. Lanier
Examiner AU 2132